



**BEFORE THE ORISSA INFORMATION COMMISSION
BHUBANESWAR**

Present: **Hon'ble Shri D.N. Padhi, S.C.I.C**
and
Prof. Radhamohan, S.I.C

Date 05th July, 2006

Complaint Case No. 47/2006

Miss Rita Biswal,
Plot No-20,
Forest Park,
Bhubaneswar-751009.....Complainant

Vrs

The Public Information Officer,
Bhubaneswar Development Authority,
Bhubaneswar.....Opposite Party

Decision

1. Complainant Miss Rita Biswal is present with her representative Sri Akshay Kumar Biswal. Smt Sravani Patnaik, OSD, Legal and PIO, BDA is also present. Heard both parties in detail.
2. For appropriate and in-context appreciation of the rival submissions of the parties, the factual developments that have occurred in the case from the date of filing the complaint till now need to be recapitulated.
3. The Complainant needed the following information from the PIO (OP) on 03/04/2006:- "A copy of the complete and up- to-date Zonal Development Plan u/S 10 of the ODA Act, 1982 if any, prepared by BDA for the Zone comprising the Forest Park Area on the Southern fringe of Bapuji Nagar, Unit-I and whether it is force and operational at present".
4. After receipt of the above request the PIO opened File No. 33 / RTI of 2006 and endorsed the same to the Planning Member BDA. Prior to that on another request by the Complainant for inspection of some other records of the Planning Section BDA, the PIO had opened File No.30 / RTA of 2006 and submitted the same to the Planning Member, BDA since the said issues related to his Section.
5. Admittedly, the information needed by the Complainant relating to the Zonal Plan (File No.33 / RTA of 2006) has not been supplied to her within the statutory prescribed time limit of 30 days for which she filed this complaint before the State Commission.
6. The State Commission took cognizance of the case on 10/05/2006 as a complaint and sent notices to the parties fixing 07/06/2006 for hearing. During hearing on 07/06/2006 it was submitted by the PIO that although she tried her best to collect

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the information from the Planning Section, the matter was delayed at the latter level for which the delay cannot be attributed to her. Having heard both parties the State Commission passed orders on 07/06/2006 to issue notice to the Planning Member, BDA for his appearance and show cause for the delay, on 20/06/2006. Both the Complainant and the Planning Member, BDA were asked to remain present on that date for hearing.

7. The Planning Member, BDA with his Asst. Town Planner - II and the Complainant appeared before the State Commission on 20/06/2006. The Planning Member, BDA drew the attention of the State Commission to the copy of the extract of File No.30/RTA of 2006 and submitted that his section has supplied the required information to the PIO, BDA on 13/04/2006 and as such there has been no delay in their part so as to attract the provisions of Section 5(5) of the RTI Act 2005 against him.



After having perused the document referred to above filed by the Planning Member, BDA the State Commission desired that the PIO is to be again heard in the matter. Accordingly notices were issued to the PIO, BDA to appear before the State Commission on 05/07/2006. Both the complainant and the P.I.O. were asked to remain present for final hearing of the case. It shall not be out of place to mention few changes in the factual scenario of the case. On 20/06/2006 when the fact in issue was heard by the State Commission in presence of the Planning Member, Asst. Town Planner - II and the Complainant, the Planning Member was directed by the State Commission to provide the information needed by the Complainant to her that very day before 5 P.M. The Planning Member, BDA duly complied with the said direction and supplied the information to the Complainant on that very day at about 4 P.M. Both the Planning Member, BDA and the Complainant immediately submitted compliance to the State Commission about the above. The above is apparently an affirmative gesture shown by the Parties in implementing the provisions of the RTI Act, 2005 in its letter and spirit.

9. Law is well settled that State Information Commission has to take a holistic view and adopt a balanced approach in appreciating the thrust of the rival submissions of the parties and in examining the legal parameters of the RTI Act, 2005. For doing as above, all the above discussed attending factual back drops are to be kept in mind for arriving at a Just decision in the case.
10. The Complainant submits that since the P.I.O. has failed to provide the information within the stipulated time limit, she should be suitably dealt with according to Law.
11. In reply the P.I.O. submits to have opened two files one relating to Inspection of records and the other relating to the Zonal Plan as per the request of the Complainant. Both the files were submitted to the Planning Section. Although File No.33/RTI of 2006 relates to the Zonal Plan, the Planning Section mentioned about the Zonal Plan issue in File No.30/RTI of 2006 which related to inspection of some other records by the Complainant. Thus there has been unintentional and inadvertent omission on her part to take note of the views of the Planning Section under the mistaken impression that she should have received a letter from the

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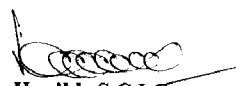
Planning Section in response to her letter on the subject. While assuring the State Commission that such omissions will not happen in future, the PIO requests for a liberal consideration of the omission as the same occurred innocently and unwillingly.

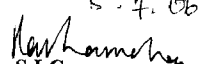


12. We are reminded of the following succinct observation of the Hon'ble Apex Court in a decision reported in (2001) 8, SCC page 431 "A Judge who has not committed any error is yet to born". It is undisputed that the State Commission is possessed of enormous statutory powers to exercise but "The strength of such power is not to be displayed solely by cracking a whip on errors, mistakes and failures. The power should be wielded as to have propensity to prevent and to ensure exclusion of repetitions if committed once innocently and unwillingly". Moreover the rule of correction and reformation has a superb role to play in the proper administration of Justice. The aim and object of the Right to Information Act, 2005 which has recently came into force bringing radical changes in the existing Law shall be well achieved by instilling the fundamental significance of the provisions contained therein. Thus disclosure of information in regard to the functioning of the Government must be the rule and secrecy an exception. As observed earlier the State Commission has to take a holistic view and adopt a balanced approach in exercise of the powers vested in them.
13. The PIO further submits that on her initiative and with discussion with the Vice-Chairman, BDA in the meantime, urgent measures have not only been introduced but taken for quick and timely disposal of RTI related matters by making radical changes in the Administrative procedure adopted in BDA and there shall be no occasion in future for such omissions recurring.
15. Having heard the parties at length, the State Commission feel it appropriate to hold that the omission has been committed innocently and inadvertently by both the PIO and the Planning Member, BDA. In view of the assurance given by the PIO, she is exonerated but at the same she should have to guard against recurrence of such omissions in future. Vice-Chairman, BDA will ensure redefining internal procedures within BDA for ~~which~~ responses to petitions etc. under the RTI Act, 2005 received by his organization.
16. Last but not the least, the Complainant having already received the information on 20/06/2006 from the Planning Member, BDA there is no need to prolong the case any further. Thus the case of the Complainant is closed.

Pronounced

Given under the hand and seal of the State Commission, this 05th day of July, 2006.


Hon'ble S.C.I.C

5.7.06

S.I.C